

AMENDED IN ASSEMBLY FEBRUARY 11, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 99

Introduced by Assembly Member La Suer

January 9, 2003

An act to add Chapter 5.8 (commencing with Section 13849) to Title 6 of Part 4 of the Penal Code, relating to high technology crimes, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 99, as amended, La Suer. High technology crimes: laboratory fee.

Existing law establishes the High Technology Theft Apprehension and Prosecution Program within the Office of Criminal Justice Planning. The purpose of the program is to provide local law enforcement and district attorneys with the tools necessary to successfully interdict the promulgation of high technology crime. Existing law creates the High Technology Theft Apprehension and Prosecution Program Trust Fund. Money in that fund is required to be expended to fund programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute high technology-related crimes.

This bill would establish the High Technology Laboratory Trust Fund within the General Fund. This bill would authorize the imposition, as specified, of a laboratory analysis fee, not to exceed \$25,000, in connection with conviction for certain technology related offenses. The fee would be required to be deposited by the county collecting it into the High Technology Laboratory Trust Fund, ~~a continuously~~

~~appropriated fund and would be required to be used, upon appropriation by the Legislature, for the purposes of defraying the costs of forensic computer analysis, or analysis of other electronic or computer evidence related to investigating and prosecuting specified high technology related offenses. The bill would also authorize the Executive Director of the Office of Criminal Justice Planning to allocate and award funds from the High Technology Laboratory Trust Fund to regional high technology task forces, as specified.~~

By imposing additional duties on local entities in connection with the collection and administration of the laboratory fee, this bill would impose a state-mandated local program.

~~By creating a continuously appropriated fund, this bill would make an appropriation.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5.8 (commencing with Section 13849)
2 is added to Title 6 of Part 4 of the Penal Code, to read:

3

4 CHAPTER 5.8. THE HIGH TECHNOLOGY LABORATORY TRUST
5 FUND

6

7 13849. (a) The High Technology Laboratory Trust Fund is
8 hereby created as a special account within the General Fund, to be
9 administered by the Office of Criminal Justice Planning. Money
10 in the fund shall, ~~notwithstanding Section 13340 of the~~
11 ~~Government Code, be continuously appropriated to the Office of~~
12 ~~Criminal Justice Planning to upon appropriation by the~~
13 *Legislature*, be used for the purposes of defraying the costs
14 incurred for computer forensic analysis or other analysis of
15 electronic or computer evidence related to investigating and

1 prosecuting high-technology offenses, as described in subdivision
2 ~~(b) of Section 13848 (c).~~

3 (b) In addition to any other fine, restitution fine or order of
4 restitution, the court may order payment by the defendant
5 convicted of an offense described in subdivision ~~(b) of Section~~
6 ~~13848 (c)~~ of a minimum forensic computer laboratory analysis
7 fee, if an analysis was conducted in the case, for the reasonable
8 costs incurred for computer forensic analysis or other analysis of
9 electronic or computer evidence, not to exceed twenty-five
10 thousand dollars (\$25,000) per case, including cases where the
11 defendant is not convicted of a felony but is convicted of a
12 misdemeanor. The court may reduce or waive this fee upon a
13 finding that the defendant does not have the ability to pay that fee.
14 The fee is to be collected only after any other court ordered
15 restitution or criminal fines are satisfied. The moneys deposited
16 with the county treasurer pursuant to this section shall be
17 transferred to the Controller for deposit in the High Technology
18 Laboratory Trust Fund. This fee shall not be assessed unless the
19 request for the fee is included in an indictment or in an information
20 or other accusatory pleading filed before trial.

21 ~~(c) The Executive Director of the Office of Criminal Justice~~
22 ~~Planning is authorized to allocate and award funds to regional high~~
23 ~~technology task forces that are funded pursuant to Section~~
24 ~~13848.4.~~

25 ~~(d) The allocation and award of funds under this chapter shall~~
26 ~~be made on application of any regional high technology task force~~
27 ~~receiving funds pursuant to Section 13848.4.~~

28 ~~(e) Allocation of funds shall be distributed in proportion to the~~
29 ~~funds collected from the county or counties within the jurisdiction~~
30 ~~of each task force.~~

31 ~~(f) Each regional task force shall use these funds for the~~
32 ~~purposes of defraying the costs incurred by police, sheriffs, and~~
33 ~~district attorneys' offices for computer forensic analysis or other~~
34 ~~analysis of electronic or computer evidence related to~~
35 ~~investigating and prosecuting high technology offenses.~~

36 ~~(g) Administration of the overall program and the auditing and~~
37 ~~monitoring of all grants made pursuant to this chapter shall be~~
38 ~~performed by the Office of Criminal Justice Planning, provided~~
39 ~~that the funds expended for these functions shall not exceed 5~~
40 ~~percent of the total amount made available under this chapter.~~

1 ~~(h)~~

2 (c) *For purposes of this section, a “high-technology related*
3 *offense” is an offense committed with the aid of a computer,*
4 *computer network, electronic mail, or the Internet.*

5 (d) For purposes of this section, the terms “computer system”
6 and “computer network” are to be construed as they are defined
7 in Section 502.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

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